UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,911	12/12/2003	A. Wade Cohn	MTV0013US	2291

33031   7590   03/28/2008
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EXAMINER
OVANDO, PABLO R

ART UNIT	PAPER NUMBER
2614	

MAIL DATE	DELIVERY MODE
03/28/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)	
Office Action Summary	10/734,911	COHN ET AL.	
	Examiner	Art Unit	
	Pablo R. Ovando	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on <u>December 12, 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-9, 11-14, 17-23, 25-28, 31-34 and 37-40</u> is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All   b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
  Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
  Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Response to Amendment

Amendment filed on December 12, 2007 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6-11, 14-16, 19, 20, 22-26, 28-32, 34-38, 40-42 are rejected under

35 U.S.C. 102(b) as being anticipated by Bateman et al, US Patent 5,884,032

(hereinafter referenced as Bateman)

As to **claim 1**, Bateman discloses a method comprising:

providing an automated option via a first communication channel during first

communication between a server and the first communication channel (col. 5 lines 12-

22, col. 6 lines 5-19, wherein "automated option" reads on WWW browsers, since a

browser has links incorporated and "server" reads on fig. 1 Data net 44 and "first

communication" reads on internet access line **6**);

determining that a second communication between the server and a second

communication channel is related to the first communication (col. 6 lines 15-19, col. 6,

col. 7 lines 62-67, col. 8 lines 1-9, wherein "determining" reads on setting up the

appropriate time of the call based on the form completed through the browser and

"second communication" reads on via fig. 1 telephone **8** and "related to the first

communication" reads on solving the conflicting problem initiated by the browser where

the live help option was selected and also on the teachings that the channels might be

quickly changed from one medium to the other); and via the second communication

channel, transmitting a computer generated voice message to a telephone, wherein the

computer generated voice message suggests selecting the automated option (col. 7

lines 62-67, wherein "providing an automated suggestion" reads on IVR server being

capable of providing help on a variety of topics).

As to **claim 2**, Bateman discloses obtaining a first identifier for first data related

to the first communication (Col.6 lines 16-19, wherein "obtaining a first identifier" reads

on the user filling out a form identifying information such as their phone number);

obtaining a second identifier for second data related to the second communication (col.

7 lines 62-67, it is noted that the IVR can provide help on a variety of topics, also an IVR

obtains information from the user and communicates information to the user) ; if the first

identifier and the second identifier are the same, using at least one of the first data and

the second data to perform an action during at least one of the first communication and

the second communication (col. 6 lines 14-25, it is disclosed that the identifier from the

first communication and second identifier corresponds to each other by stating that the

form filled by the customer through the PC **4** allows the server to call the user's

telephone **8**).

As to **claim 6**, Bateman discloses providing third data obtained using at least one of the first identifier and the second identifier (col. 7 lines 62-67 and col. 7 lines 1-9, wherein the IVR can help the user in a variety of topics. It is noted that an IVR system will request information as well as provide commands or menus for the user to follow. "Provided third data" reads on the commands or menus that the IVR will generate as a result of the identifier).

As to **claim 7**, Bateman discloses that the action comprises providing a second automated option during at least one of the first communication and the second communication (col. 7 lines 62-27, it is noted that "automated option" reads on IVR call back system and "second communication" reads communication using the phone **8** through the PSTN **9** network).

As to **claim 8**, Bateman discloses that the action comprises providing a second automated suggestion to select a second automated option provided during at least one of the first communication and the second communication (col. 7 lines 62-27 discloses that an IVR is used to provide help on a variety of topics, it is inherent that the IVR system will provide various suggestions during the process in order to gather and correlate the correct data).

As to **claim 9**, Bateman discloses the first communication channel is of a first type (fig. 1 phone **8** and PSTN **9**), the second communication channel is of a second type (fig. 1 PC **4** and element **28**), and the first type and the second type are different.

As to **claim 11**, Bateman teaches that the first data are unavailable via the second communication channel, and the second data are unavailable via the first

communication channel (col. 6 lines 6-13 and col. 7 lines 62-66 discloses that the

information from the pc 4 is communicating through web server **28**, and the phone **8** is

communicating through the PSTN **9**. It is inherent that each communication artifact

communicates through a separate path; therefore the data will not travel on separate

communication channels).

As to **claim 14,** Bateman discloses that a first one of the first and second

communication channels is a telephone channel (fig. 1 phone **8** and PSTN **9**); and a

second one of the first and second communication channels is a web channel (fig. 1 PC

4 and element **28**).

As to **claims 19, 20 and 22-23**, Bateman anticipates the system for the reasons

given in claims 1, 2, 6-7 respectively. All means for function elements of claims 19-24

are carried by interaction between software/hardware as disclosed by Bateman in fig. 1.

As to **claims 25, 26 and 28**, Bateman discloses a system corresponding to the

method steps of claims 1, 2 and 6 respectively (see rejection of claims 1, 2 and 6

respectively).

As to **claims 31, 32 and 34**, Bateman discloses a system carried by interaction

between software/hardware, and therefore it would be inherent that a program stored

(intended language) in a computer readable medium is stored in the software/hardware

corresponding to the method steps of claims 1, 2 and 6 respectively (see rejection of

claims 1, 2 and 6 respectively).

As to **claims 37, 38 and 40**, Bateman discloses a computer system carried out

by software/ hardware and therefore it would be inherent that the system has a

processor for executing instructions and a memory to store instructions. Additionally the

system corresponds to the method steps of claims 1, 2 and 6 respectively (see rejection

of claims 1, 2 and 6 respectively).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 3, 4, 5, 12, 13,17, 18, 21, 27, 33, 39 are rejected under 35 U.S.C. 103(a)

as being unpatentable over Bateman in view of Klein, US Patent 6,279,125 (hereinafter

referenced as Klein).

As to **claim 3,** Bateman meets all the limitation with the exception of disclosing

that at least one of the first data and the second data comprises a diagnostic code, and

the action comprises providing second information decoded from the diagnostic code.

Klein discloses a system in the same field of endeavor that diagnosis computer

problems by providing diagnostic information from the computer to an agent or

automated diagnostic system (col.6 lines 5-12, abstract lines 1-3) through the phone to

diagnose the problem and find relevant troubleshooting information (col. 5 lines 37-49,

col. 6 lines 5-12), wherein "first data" reads on information sent through the phone and

"second information" reads on the data obtained from the audio input/output device used to report diagnostic data (col. 6 lines 8-12). It would have been obvious for someone of ordinary skill in the art at the time of the invention was made to apply the teachings of Klein in Bateman's method for the purpose of providing the agent or automated diagnostic system information about the status of the computer. Having the agent or automated diagnostic system know the status of the computer would lead to determining the cause of error faster and more efficiently.

As to **claim 4**, Klein discloses that the second information comprises at least one of telemetry data, and diagnostic information (col. 6 lines 5-12, wherein the second information is the audio from the computer going to the agent or automated diagnostic system to provide the proper diagnosis).

As to **claim 5**, Klein discloses providing the second information for viewing (col. 6 lines 12-21, wherein the agent or automotive diagnostic system explains information to the user and the user is able to view that information on the computer).

As to **claim 12,** Klein discloses that at least one of the first data and the second data comprises diagnostic information for a problem with the problem entity (col. 6 lines 8-12).

As to **claim 13**, Klein discloses that at least one of the first data and the second data comprises information for identifying the problem entity (col. 6 lines 8-12, wherein the data sent comprises the problem entity).

As to **claim 17,** Bateman teaches using two different channels, which provide automated options to communicate information. However, it does not teach that the

automated option is a solution to a problem with a problem entity, and

the first communication and the second communication provide data about the problem

with the problem entity. Klein teaches diagnosing problems through a communication

channel with a technician or an automated diagnostic system (col. 6 lines 8-11 and lines

22-36, abstract). It would have been obvious to someone of ordinary skill in the art at

the time of the invention was made to modify Bateman's method with Klein's teachings

of sending diagnostic information through two different channels for the purpose of

gathering data from a variety of resources.

As to **claim 18,** Bateman teaches gathering information through different

channels. Klein discloses gathering data related to a problem. Therefore, it would have

been obvious to someone of ordinary skill in the art to modify Bateman's method with

the teachings of Klein for the purpose of enhancing a customer's online experience

when using the applications disclosed in Bateman.

As to **claims 21, 27, 33, 39,** the combination of Bateman and Klein meets all the

limitations. Claims 21, 27, 33, 39 correspond to the method steps of claim 3 (see

rejection of claim 3).

Response to Arguments

Applicant's arguments filed on December 12, 2007 have been fully considered

but they are not persuasive. Applicant argues that Bateman does not disclose "a

computer generated voice message to a telephone, wherein the computer generated

voice message suggests selecting the automated option". Based on Newton's Telecom

Dictionary, an IVR is a computer system that provides generated voice recordings to users. Bateman, Col. 6, lines 55-61 disclose that a live agent helps the user seek a solution. Another possibility is disclosed in col. 7, lines 61-62, wherein the help is received through the use of an IVR system.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shtivelman, Patent number 6,393,015 discloses a system for coordinating a the communication between an agent and a user.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pablo R. Ovando whose telephone number is 571-272-9752. The examiner can normally be reached on M-F 7:30 am to 5:00pm, EST,Alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar can be reached on 571-272-7488. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Pablo R Ovando/
Examiner, Art Unit 2614

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